

Corte Suprema di Cassazione, Prima sezione penale, sentenza n. 24084, 31 marzo 2017.

Court Decision, n. 24084, 31 March 2017. Supreme Court of Cassation: First Criminal Division (Antonella Patrizia Mazzei, President; Angela Tardio, Francesco Maria Silvio Bonito, Marco Vannucci, Counsellors; Adet Toni Novik, Counsellor and Draftsman of Judgement), Italy.

*Human Rights - Freedom of religion or belief – Religious symbols – Sikh Kirpan - Religious discrimination - Public safety reasons – Whether it is possible to carry a ritual knife (the kirpan) in public space – Whether it is possible to be exempted from the general prohibition of not carrying weapons in the streets and in public places on religious grounds.*

The First Criminal Division of the Italian Supreme Court of Cassation ruled that carrying a kirpan in public streets and in public places contravened the public safety laws about edge weapons. Such a prohibition is not a violation of freedom of religion under art. 9 of the European Convention of Human Rights. Differently, it constitutes a legitimate and necessary restriction in order to protect public safety in a democratic society.

A sikh adherent was found with a kirpan at his belt and he refused to hand in it to the local police, claiming the respect of his freedom of religion. He was found guilty for having carried outside his home the kirpan assuming it is a weapon. Sentenced in the inferior Courts, the Sikh man adhered the Supreme Court.

The Court holds that it is necessary to identify a common set of values to which the “immigrants” have a legal duty to conform to in multi-ethnic societies.

In particular, this set of values of the host society (where they freely choose to live) could be interpreted in a flexible way. Nevertheless, such a flexibility cannot be so wide to create “cultural islands”, in which the law of the State is not respected for cultural (*rectius*: religious) claims.

Relying also on the European Court of Human Rights decisions *Leyla Sahin v. Turkey*, *Refah Partisi v. Turkey*, *Gorzelik and others v. Poland* and *Eweida and others v. United Kingdom*, the Court restates the State right to interfere on people religious right to protect the general interest. For this reason the Court affirms that no weapon, such as a kirpan, can be carried out in public streets and places even if it is a religious symbol. Indeed, according to the Court public safety cannot be jeopardized with the aim of protecting religious freedom or any other fundamental right.

Link: <http://www.olir.it/documenti/?documento=6832>

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